

Remarks

In view of the above amendments and the following remarks, reconsideration of the outstanding office action is respectfully requested.

Initially, it is noted that ownership of the above-identified application has been transferred recently, and revocation and power of attorney papers will soon be made of record. In the meantime, the undersigned counsel confirms that authority to act on behalf of the new owner has been provided to the undersigned.

Claims 6 and 9 have been cancelled without prejudice, and claim 1 has been amended. Descriptive support for the amendments to claim 1 is provided at original claim 6 and the paragraph appearing at page 4, lines 19-25. Therefore, no new matter has been introduced. Claims 1-5, 7, and 8 remain pending and under examination. No excess claim fees are due with this submission.

The rejection of claim 9 under 35 U.S.C. § 101 is rendered moot by the cancellation of claim 9 without prejudice. This rejection should be withdrawn.

The rejection of claims 1-9 under 35 U.S.C. § 103(a) for obviousness over U.S. Patent Application Publ. No. 2002/0129366 to Schein et al. (“Schein”) in view of U.S. Patent Application Publ. No. 2005/0210145 to Kim et al. (“Kim”) is respectfully traversed.

Schein teaches an electronic program guide (EPG), and identifies an array of possible user features that can be selected by the viewer via the EPG. One of the possible features is the ability for the viewer to identify when the same program may be viewed at different times on the same channel and/or other channels. This can be done by selecting a particular option on the EPG via remote control. For this feature to be provided, schedule data will have been transmitted to the broadcast data receiver and will be associated with the particular program to which the schedule data relates. Schein discloses that transmission of vertical blanking information (including program related information), program guide, and conditional access information “are provided as separate bit streams” (see paras. 0053 and 0054). Thus, Schein teaches away from interleaving data transmission as presently claimed. The U.S. Patent and Trademark Office (“PTO”) appears to acknowledge that Schein fails to teach interleaving EPG data transmission, as noted on page 3 of the outstanding office action.

Kim teaches the use of a multimedia bookmark, which has content information about a segment of a multimedia program and identifies an intermediate point of the multimedia program, and which will allow a user (using the multimedia bookmark) to access the segment without accessing the beginning of the multimedia program. Kim briefly

mentions that certain MPEG formats may use interleaved data transmission for multimedia files.

Applicants respectfully traverse the rejection on several bases.

Firstly, applicants submit that the PTO has failed to demonstrate that Kim is available as prior art. Because Kim was published after the priority filing date of the present application (February 5, 2003), Kim is not available as prior art under 35 U.S.C. § 102(a), (b). Also, as a continuation-in-part application, Kim is not absolutely entitled to benefit of all listed priority dates for the subject matter cited by the PTO. In this case, the filing date of Kim (March 3, 2005) means that Kim is not available as prior art under 35 U.S.C. § 102(e) unless the disclosed subject matter (cited by the PTO) also appears in a benefit application that is prior to February 5, 2003. In this case, the only priority application of Kim that is before February 5, 2003, is application serial no. 09/911,293, filed July 23, 2001, and its several provisional applications. However, the Kim '293 priority application (later published as Publ. No. 2002/0069218), fails to even recite the word "interleaved." Thus, for the subject matter that is relied upon by the PTO, Kim is not entitled to the July 23, 2001, priority date for purposes of 35 U.S.C. § 102(e). Instead, Kim is only entitled, at best, to intervening filing dates that are all after February 5, 2003. As a consequence, applicants submit that Kim is not available as prior art under 35 U.S.C. § 102(a), (b), or (e).

Secondly, even if Kim is available as prior art (which applicants do not admit), applicants submit that the combination is not proper because Schein and Kim relate to two entirely different problem solving areas. *See In re Clay*, 966 F.2d 656, 658-59, 23 USPQ2d 1058, 1060-61 (Fed. Cir. 1992) (to be combinable, the art must either be from the same field of endeavor or reasonably pertinent to the particular problem with which the inventor is involved). Contrary to the assertion of the PTO, Schein and Kim are not from the same fields of endeavor, and Kim is not reasonably pertinent to Schein (or the present invention). As noted above, Schein concerns an EPG and its features, whereas Kim relates to the use of multimedia bookmarks. Kim simply mentions that multimedia files can be transmitted using interleaved data transmission. However, because Kim is not even reasonably pertinent to the present invention, persons of ordinary skill in the art would not have been motivated to even consider the teachings of Kim in relation to the teachings of Schein. Thus, the combination of Schein and Kim is improper.

Finally, applicants submit that even if Schein and Kim are properly combinable (which applicants do not admit), then the combination of Schein and Kim fails to suggest each and every limitation of the invention as claimed. In particular, neither Schein

nor Kim, nor the combination thereof, teaches or suggests a method of coding and/or transmitting EPG data as presently claimed, where program records and the schedule records are coded and/or transmitted in an interleaved manner such that “two successive...program records are separated by one or more schedule records associated with a particular one of the two successive program records *and*, once transmitted, *at the receiving device, the EPG data is read, parsed and stored as it is being received before the complete reception of the data for the EPG is finished*” (emphasis introduced).

As noted in the present application (see page 4), this feature allows the processing of received data to be performed “on the fly” as processing can commence once the program data and schedule data for a particular program has been received, and it is not necessary for the receiver to wait until it has received the data for all programs on the EPG and then all corresponding schedule data before processing can begin. This affords significant advantages previously unattained during EPG transmission. One advantage is that the processing can commence quickly upon receipt of the first data and it is not necessary for receipt of all of the data before processing commences; this avoids EPG processing delay. A second advantage is that if the system runs out of memory or crashes, then only the data for the last received program is at risk of being lost rather than all of the program data.

While Kim (which is not prior art) mentions the interleaving of data transmissions for multimedia types, there is no suggestion in Kim of interleaving data which is exclusively for a single use, an EPG. Because Kim only refers to interleaving data for multimedia uses, it is therefore incorrect to assume that a person of ordinary skill in the art, having read Schein, would consider interleaving EPG data in the manner as presently claimed and, importantly, in contradiction of Schein. Thus, there is no suggestion in the combination of Schein and Kim (or Schein, alone) that interleaving of data for the same media would have any significant benefit or use, and there is certainly no indication that it would have the unexpected technical benefits noted above.

For all these reasons, the rejection of claims 1-9 for obviousness over the combination of Schein and Kim is improper and should be withdrawn.

In view of all of the foregoing, applicants submit that this case is in condition for allowance and such allowance is earnestly solicited.

Respectfully submitted,

Dated: September 24, 2008

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